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JUN 15 2020

CLERK, U.S. DISTRICT COURT
ANCHORAGE, A.K.

United States District Court
for the District of Alaska

7018 3090 0000 7464 0654

United States of America

V

Hayden Curtis Gates Beard

Case NO:

3:18-cr-00029-1-RRB

Motion for Compassionate
Release

* * *

I would like to petition the court for compassionate release due to compelling and extraordinary circumstances, these being COVID-19 and the complications it would cause to my already compromised immune system - namely my HIV and Hepatitis infections.

"[N]othing could be more extraordinary and compelling than this pandemic". U.S. v. Rodriguez 2020 U.S.

Dist LEXIS 58718 at 2 (E.D. P.A. Apr 1 2020)

Miller v. U.S. 2020 U.S. Dist LEXIS 62421 at 12

(E.D. Mich Apr 9 2020) "The CDC [] ~~is~~ states that individuals with underlying medical conditions such as chronic lung disease, a serious heart condition, compromised immune system and liver disease have a high risk of severe illness" in regards to COVID-19. HIV being an autoimmune disease puts me in the high risk category as well as being in prison. "[the] defendant is at high-risk

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for severe illness from COVID-19 and because inmates in [prison] facilities are particularly vulnerable to infection." U.S. v. Muniz U.S. Dist 2020 LEXIS 59255 (S.D. Tex Mar 30 2020) at 2. (Currently, I'm at Compo FCI and as stated by U.S. v. Young case #3:19-cr-05055-BHS (W.D. WA. May 2020) "over 70% of the inmates at Compo have been infected with COVID-19". I'm 65% done with my sentence, it would be devastating, to say the least, if I were to contract COVID-19 and die, while only having such a small amount of time before release. - 4 months to halfway house and 9 months to home confinement.

During my entire incarceration I've suffered night sweats, fevers, chills, chronic diarrhea, blackouts and two different diagnoses of severe issues. 1) While in B.O.P custody (Alaska Jail), I was diagnosed with Gharardia, commonly known as beaver fever - several months, about 14 or so - into my incarceration - fortunately I was cured. 2) While at Purump, Nevada I contracted a flesh eating bacteria, again fortunately cured. This is to show how hyper-susceptable I am to infectious disease. Like in the case of U.S. v. McCarthy 2020 U.S. Dist LEXIS 61759 at 3 (D. Conn Apr 8 2020) I face "Unique confluence of serious health issues and other risk factors facing this defendant, which places [me] at a substantially heightened risk of dangerous complications should [I] contract COVID-19."

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I would also like to state that on 4/6/20 I submitted via institutional mail, in a sealed envelope, addressed to the Warden, a request asking for Compassionate Release, no response was given. I have not seen the Warden since before 4/6/20. Under Washington v. Barr, 925 F.3d 109, 118 (2d Cir 2019), I am entitled to make this motion because "exhaustion may be unnecessary where it would be futile, either because agency decisionmakers are biased or because the agency has already determined the issue" and "Catastrophic health consequences, could make exhaustion futile."

While I understand that I pled guilty to counts pertaining to child pornography, I would like to point out, to the court, that while I am a first time offender of sex charges pertaining to child pornography this does not disqualify me from compassionate release in this tumultuous time. As in the case of U.S. v. Sawicz 08-cr-297 (ARR) (E.D. NY Apr 10 2020) Mr. Sawicz, who is ~~sex~~^{repeat} sex offender and was given a Compassionate Release. My charges "do not justify keeping the defendant in prison amidst an outbreak of potentially deadly virus to which he is particularly vulnerable." The court goes on to note, Sawicz has 5 months from being eligible for home confinement under normal circumstance.

I would also like to point out that I have completed the B.O.P's 14 day quarantine and when

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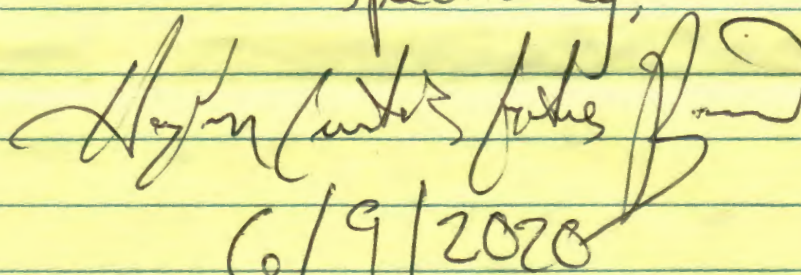
released would be more than happy to do another 14 day stay-in-place for safety measure. I have housing planned upon release which was verified by pre-trial services. I would be staying with an upstanding member of society, whom was a police officer at one point in his life. I plan to find work-as discussed during sentencing-as a wine salesperson, which I've already done in the past and a benefit of said job is that due to state and federal laws this particular job has zero contact with underage persons.

Based on the CDC reports, the court should take judicial notice that there is a high probability that I-with my compromised immune system-will contract COVID-19 if left in the B.O.P., will experience complications, require admission into a hospital or be committed to the ICU. I live in a high-RISK situation, for instance in an open dorm where "120 inmates eat elbow-to-elbow at the same time, share one large bathroom with a handful of stalls and a handful of showers" (U.S. v Zuckerman, 2020 U.S. Dist. LEXIS 59588, at 1 (S.D. N.Y. Apr 3 2020)) and where ~~and~~ virus, infection or disease run rampant and everyone will and does get sick. Which is why I am imploring the court to grant my Compassionate release request.

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I trust that the court will recognize that this is very much a pro se pleading, I have no counsel, nor was I able to go to law library to research and prepare. Fortunately my cellmate gets legal things sent in and he allowed me to use them. Please note I have zero legal training - which I'm sure is evident and hope that you'll be lenient on my motion. (Erickson v. Pardus, 551 U.S. 89, 94, 127 S.Ct. 2197, 167 L.Ed. 2d 1081 (2007); Castro v. U.S. 540 U.S. 375, 381-83, 124 S.Ct. 786, 157 L.Ed. 2d 778 (2003)).

Thank you for your consideration in the matter stated herein.

Respectfully,

6/9/2020

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Certification

I, Hayden Curtis Gates Beard, do certify under the pains and penalties of perjury (28 USC § 1746) that the facts stated herein are true and correct to the best of my knowledge and ability to remember the facts. I further certify that the original copy of this pleading was hand delivered to a B.O.P staff member for delivery to the U.S.P.S with sufficient postage for delivery to the court on this Tuesday the 9th day of June, 2020 by my own hand and seal.

Hayden Curtis Gates Beard

Hayden Board 20207-006
Federal Correctional Center

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